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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,973	12/29/2003	Charles F. Kelty	3001.002	8829
5179	7590	09/08/2005	EXAMINER	
PEACOCK MYERS, P.C. P O BOX 26927 ALBUQUERQUE, NM 87125-6927			PRINCE, FRED G	
			ART UNIT	PAPER NUMBER
			1724	
DATE MAILED: 09/08/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/748,973

Applicant(s)

KELTY, CHARLES F.

Examiner

Fred Prince

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 18 is/are allowed.
6) ☒ Claim(s) 1-3, 7, 8 and 10-16 is/are rejected.
7) ☐ Claim(s) 4-6, 9 and 17 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection necessitated by applicant's amendment.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 3, 7, 10, 12 and 14-16 are rejected under 35 U.S.C. 102(b) as anticipated by Gadgil et al. (US Pat No 5,780,860).

Gadgil et al. teach a tank portion (casing including 43, 46, and outlet casing) receiving water from a body of water, a skimmer chamber (55; col. 10, lines 46-53) within the tank portion receiving water from a weir (37), an ultraviolet light chamber (47, 53) within the tank portion, and a filter chamber (19) within the tank portion and a lid (27) mating to the tank portion.

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Regarding the lid being capable of reducing deformation of the tank portion by an environment, it is submitted that the recitation is one of intended use failing to add structure to the apparatus.

4. Claims 1-3, 7, 10, and 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Teller et al. (US Pat No 4,021,347).

Teller et al. teach a tank portion (10) receiving water from a body of water, a skimmer chamber (including screen 34 and bowl 60) within the tank portion receiving water through a weir (23), an ultraviolet light chamber (including tube 80) within the tank portion, a filter chamber (36) within the tank portion and a lid (16) mating to the tank portion, and a pump chamber (including 56, 62).

Regarding the lid being capable of reducing deformation of the tank portion by an environment, it is submitted that the recitation is one of intended use failing to add structure to the apparatus. Accordingly, the recitation fails to patentably distinguish the instant invention over the prior art.

5. Claims 1-3, 10, and 12-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Jackson (US 2004/0094470).

Jackson teaches a tank portion (212,214) receiving water from a body of water through a weir (238), a skimmer chamber (264), an ultraviolet light chamber (250) within the tank portion, a filter chamber (228) within the tank portion, and a pump chamber (including 234).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gadgil et al., Teller et al., or Jackson.

The primary references are described above. The primary references do not disclose that the lid portion is for reducing deformation, or that the lid has a coarse exterior surface or the slots for receiving a locking ring.

Per claim 8, it is submitted that making the exterior having a coarse surface is a matter of design, insufficient to patentably distinguish the instant invention over the prior art.

Per claim 11, it is submitted that it is conventional in the art to provide a bypass valve between a skimmer chamber and a pump chamber in order to, for example, control water flow through the skimmer (see, for example, US Pat No 4,454,035 to Stefan). Accordingly, it is submitted that it would have been readily obvious for the skilled artisan to have modified the invention of any of the primary references such that any one includes a bypass valve between a skimmer chamber and a pump chamber in order to, for example, control water flow through the skimmer.

Allowable Subject Matter

8. Claim 18 is allowed.
9. Claims 4-6, 9, and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Per claims 4-6, while claim 1 is not patentable for the reasons provided, and it is conventional in the art to utilize a cylindrical tank, in the examiner's opinion, the prior art fails to teach or fairly suggest the unit further including a neck extending from the tank with the neck comprising a weir faceplate assembly. The instant invention provides the advantage of adjustment of the effective neck width, or weir width, to compensate for variable water flow rates.

Per claim 9, while claim 1 is not patentable for the reasons provided above, in the examiner's opinion, the prior art fails to teach or render obvious instant invention. The instant invention provides secure means for attaching the ultraviolet light to the chamber.

Per claim 17, while claim 14 is not patentable for the reasons provided above, and it is known in the art to sense water levels within in a pump chamber (see GB 2353231), in the examiner's opinion, the prior art fails to teach or fairly suggest the method further including operating a bypass valve having the recited positioning and operational elements.

Per claim 18, while it is known in the art to provide a method of treating water including receiving water through a weir opening located at an upper portion of an upright tank;

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skimming water with a skimmer basket located downstream and approximately beneath the weir opening (see, for example, US Pat No 4,022,690 to Smith) and it is known in the art to direct water to directing skimmed water to an ultraviolet light chamber within the same tank (see, for example, US Pat No 5,780,860 to Gadgil et al.), in the examiner's opinion, the prior art fails to teach or fairly suggest combining the known steps with a step of directing the skimmed water through a unidirectional port defined within a lower portion of a partitioning wall of the upright tank.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. References are cited of interest to show the state of the art.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Prince whose telephone number is (571) 272-1165. The examiner can normally be reached on Monday-Thursday, 6:30-4:00; alt. Fridays 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Fred Prince
Primary Examiner
Art Unit 1724

fgp
9/2/05